

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Directive Number 02-170 Property and Casualty
Insurance Company Information Request

To: All Property and Casualty Insurers

Within the last year, the property and casualty insurance market has hardened nationwide, with Louisiana being no exception to this trend. The state of Louisiana is in, what some are calling, a crisis in the homeowners insurance market. A number of homeowners insurance companies are no longer accepting new business or withdrawing from the state all together due to their assessment of our loss potential. We are seeing a similar trend beginning to occur in the automobile insurance market.

We recognize the fact that a more competitive environment fosters lower insurance rates. For example, since 1990 the number of insurers writing homeowners business in Louisiana has gone from 148 companies to approximately 88 companies today, while in south Louisiana the number decreased from approximately 65 to 14 presently writing. These numbers are somewhat deceiving in that not all of the companies are actively writing or, in other words, writing new business. Due to this fact, the Louisiana Property and Casualty Insurance Commission surveyed the 221 companies that have had a book of business in Louisiana since 1990 asking them if they are currently writing new business. Of the companies surveyed, only 58 responded and of the 58, only 20 said they were currently writing new business. Therefore, we must attract new insurance companies to this state, while retaining the current insurers.

Along with the Louisiana Property and Casualty Insurance Commission, I am requesting your assistance in the solution process by issuing this directive. I need your company to give us its recommendations for changes that need to be made in the following areas: regulation, legislation, and departmental operations. In the interest of open and fair communication with the insurance industry, this directive allows companies to be frank in their assessments of regulatory and legislative related problems plaguing Louisiana. Actions taken on these recommendations could help Louisiana become a more attractive marketplace for its consumers, potential insurers and existing insurers.

Please note that your company will not be jeopardizing its relationship with the Louisiana Department of Insurance by making such recommendations. Also, your comments will remain confidential and your company's name will be anonymous. I ask that you be as direct and specific as possible with suggestions in order to ensure that there is no room for miscommunication or misinterpretation.

If you should have any questions, please feel free to contact Ms. Molly M. Quirk at mquirk@ldi.state.la.us or by calling (225) 342-7187. Please submit all recommendations in whatever form you deem appropriate by October 31, 2002

to Louisiana Department of Insurance, Attn: Property and Casualty Insurance Commission, 8th Floor, P.O. Box 94214, Baton Rouge, Louisiana 70804.

J. Robert Wooley
Acting Commissioner

0209#048

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Directive Number 02 171
Stop Loss/Excess Policies of Insurance

To: Insurers Authorized to Issue Property and Casualty or
Health and Accident Policies of Insurance in This State

Directive Number 01-161 Rescinded

Directive Number 01-161, issued on October 22, 2001, is hereby rescinded in its entirety as of this date.

Brief Explanation of Coverage

Stop-loss or excess insurance coverage may provide protection to employers against catastrophic or unpredictable losses under a self-funded employee welfare benefit plan. "Specific" stop-loss insurance coverage limits the employer sponsored health plan's cost for eligible claims for each covered individual, protecting against abnormally high claims for any one individual. "Aggregate" stop-loss or excess insurance coverage limits the employer sponsored health plan's overall annual cost by protecting against an unusually high frequency of total claims. Eligible claims are determined for a stated contract period of stop-loss or excess insurance by the date claims are both incurred by the recipient of medical care and paid by the self-funded employee welfare benefit plan. The following "claims incurred and paid" contract bases are available to suit the needs of diverse employers sponsoring self-funded group health plans.

A. "Run-in" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during a stated period of at least 90 days prior to the effective date of the 12-month contract period of stop-loss or excess insurance and paid during such 12-month contract period.

B. "Paid" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during a stated period prior to the effective date or during the contract period of stop-loss or excess insurance and paid within the 12-month contract period.

C. "Run-out" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during the stated twelve month contract period and paid within a stated period extending at least 90 days after expiration of the 12-month contract period.

D. "Terminal Liability" is an option that may be elected upon initial application or at renewal of a contract providing a "Run-in" or a "Paid" contract basis, furnishing an extra ninety days or more of "Run-out" protection upon termination of the contract period.

Purpose

Act 273 of the 2001 Regular Session of the Louisiana Legislature mandated provision of coverage for eligible claims incurred under a group health plan during the stop-loss or excess insurance contract period, provided that proof of payment by the group health plan is furnished to the stop-loss or excess insurer within 90 days after expiration of the policy. This requirement was prompted by policyholder complaints regarding denial of reimbursement for claims incurred during the last few months of a contract period. Prior to enactment of LRS 22:675, some stop-loss or excess insurance contract provisions required claims incurred under the group health plan to also be paid by the group health plan during the stop-loss or excess insurance contract period, while providing neither "Run-in" nor "Run-out" coverage. It is often impossible for all claims incurred by employees to be filed, adjudicated and paid by the self-funded group health plan during the last few months of a standard 12-month stop-loss or excess insurance contract period. Some inexperienced employers, offering employee welfare benefits for the first time on a self-funded basis and purchasing stop-loss or excess insurance without "Run-out" coverage or optional "Terminal Liability" coverage, either misunderstood or were not properly advised regarding the extent of their exposure to uncovered risk.

However, requiring that all new and renewal stop-loss or excess insurance policies include a ninety day extension of the contract period allowed for payment of incurred claims could have serious consequences for the majority of experienced employers maintaining self-funded group health plans. Those employers assuring adequate funding of claims by the purchase of stop-loss or excess insurance renewing annually on a "Run-in" or "Paid" contract basis could face a gap in protection upon conversion to stop-loss or excess insurance provided on a "Run-out" contract basis. As long as such policies providing a "Run-in" or a "Paid" contract basis are renewed annually or replaced with similar coverage through a different carrier, there is no need for the employer to purchase optional "Terminal Liability" coverage provided that the policyholder is made aware of the potential risk involved in terminating the stop-loss or excess insurance policy.

Certification of Compliance

Insurers must revise policy forms for all types of stop-loss or excess insurance offered in the state of Louisiana as necessary to meet the requirements of Act 273 and submit such revised policy forms to the Department of Insurance for review and approval pursuant to R.S.22:620, 675.C.(7) and 675.F.(5). The appropriate Certification of Compliance form attached to this Directive must be properly completed and included with all stop-loss or excess insurance policy forms submitted to the Department.

A. Policy forms intended to cover the losses of a group health plan may assure compliance with Subsection 675.C.(5) by including provisions for coverage in accordance with the following requirements.

1. All applications for stop-loss or excess insurance must include the option to purchase a policy providing coverage on a "Run-out" contract basis, extending the "claims paid" period at least ninety days beyond expiration of the twelve month contract period allowing for claims to

be incurred under the group health plan late in the contract period, but submitted and paid during the "Run-out" period.

2. All applications for stop-loss or excess insurance that include the option to purchase a policy providing coverage restricted to claims both incurred and paid during a twelve-month contract year must contain a mandatory offer of "Terminal Liability" coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing the following disclosures.

"It is hereby agreed and understood that the stop-loss (excess) insurance policy selected does not provide reimbursement to the plan sponsor for any expenses incurred under the group health plan prior to the beginning of the contract period for stop-loss [excess] insurance or, for any expenses paid after expiration of the contract period. Only eligible expenses that are both incurred under the group health plan and paid by the group health plan within the twelve month contract period for stop-loss [excess] insurance are reimbursable under the policy selected."

3. All applications for stop-loss or excess insurance including options to purchase a policy providing coverage on a "Run-in" or a "Paid" contract basis must contain a mandatory offer of "Terminal Liability" coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing the following disclosure.

"It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses that are not paid by the group health plan within the current contract period, unless the policy is subsequently renewed. Only eligible expenses that are both incurred and paid by the group health plan within the stated contract periods are reimbursable under the contract selected."

4. Provisions for "Terminal Liability" coverage must extend the period for payment of claims under the group health plan by at least an additional 90 days from expiration of the 12-month contract period allowed for incurred claims.

5. All contracts must provide for a 90-day or longer period, from expiration of the policy, for filing proof of payment by the group health plan.

B. Pursuant to R.S. 22:675.D, stop-loss or excess insurance shall not be equivalent to reinsurance, nor shall it be defined as a contract or policy of health insurance under R.S. 22:3002(1)(a).

C. In accordance with R.S. 22:675.E, insurance companies writing stop-loss or excess insurance coverage shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This includes ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement as defined in 29 U.S.C. §1002(40), unless the underlying plan is authorized to do business in this state as a self-insurer. R.S. 22:3002(2) states that self-insurer means any entity that makes, provides, or issues a self-insurance plan. Self-Insurance Plan is defined in Subsection 3002(1)(a) as any contract, plan trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured under a

policy or contract of health insurance issued by an insurer authorized to transact business in Louisiana.

Stop-loss/excess insurance issued to a self-insurance plan must meet the following additional requirements of LRS 22:3009.

- 1. Aggregate and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.
- 2. The stop-loss or excess policy must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.
- 3. The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.

Note: The stop-loss or excess insurance policy shall be submitted by the plan to the Commissioner of Insurance for review at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days subsequent to any renewal date.

Certification of Compliance

Stop-Loss/Excess Insurance Policy

R.S. 22:675.C Stop-loss or excess insurance policy intended for issue to cover losses of a self-funded group health plan. "Group Health Plan" means an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

Policy Form No. _____,
filed with the Louisiana Department of Insurance on:

by: _____
(Name of Insurance Company)

fully satisfies the following conditions of §675(C)(1-6).

(Printed Name and Signature of Authorized Representative of Insurer)

The particular policy definitions and/or provisions are listed for each item with corresponding page numbers.

- 1. The stop-loss or excess insurance policy will be issued to and insure the group health plan or the plan itself and not the employees, members, or participants.

Definition/Provision Page #

- 2. Payments by the insurer will be made to the sponsor of the group health plan or the plan itself and not the employees, members, participants, or providers except in the event of group health plan's bankruptcy or insolvency.

Definition/Provision Page #

- 3. The specific stop-loss or excess limit or attachment point per individual claimant is at least ten thousand dollars. The aggregate stop-loss or excess limit or attachment point for the group health plan is, at a minimum, one hundred twenty percent of the group health plan's total expected claims per policy period.

Definition/Provision Page #

- 4. The stop-loss or excess insurance policy contains a provision stating that the bankruptcy or insolvency of the group health plan shall not release the insurer its obligation to pay losses incurred during the existence of stop-loss or excess insurance coverage.

Definition/Provision Page #

- 5.a. The stop-loss or excess insurance policy contains a provision allowing at least ninety days after expiration of the policy for filing proof of payment by the group health plan;
- b. Provisions of coverage for "Terminal Liability" extend the period for payment of claims under the group health plan by at least an additional ninety days from expiration of the twelve month period allowed for incurred claims; and
- c. Application forms include all options and disclosures as dictated by Directive 02-171.

- (a) Definition/Provision Page #
- (b) Definition/Provision Page #
- (c) Definition/Provision Page #

- 6. The stop-loss or excess insurance policy provides coverage with rates not subject to adjustment by the stop-loss insurer during the policy period, unless there is:
 - a. a change in the benefits provided under the group health plan; or
 - b. enrollment under the group health plan changes by at least ten percent.

Definition/Provision Page #

Certification of Compliance

Stop-Loss/Excess Insurance Policy

LSA-R.S. 22:675.F Provider Stop-Loss or Excess Insurance policies that protect health care providers from a portion of the financial risk assumed in managed care contracts with health and accident insurers, health maintenance organizations, and self-funded group plans.

Policy Form No. _____,
filed with the Louisiana Department of Insurance on:

by: _____
(Name of Insurance Company)
fully satisfies the following conditions of §675(F)(1-4).

(Printed Name and Signature of Authorized Representative of Insurer)

The particular policy definitions and/or provisions are listed for each item with corresponding page numbers.

- 1. The stop-loss or excess insurance policy will be issued to and insure the contracted provider or network of health care providers.

Definition / Provision Page #

2. Payments by the insurer will be made to the contracted provider or network of health care providers.

Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

0209#047

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Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

3. The attachment point per individual claimant is at least \$5,000. The aggregate stop-loss or excess amount, if any, is at least \$50,000 per calendar year.

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

4. The stop-loss or excess insurance policy contains a provision allowing at least 90 days after the date loss is incurred for filing proof of loss with the insurer.

Definition / Provision Page #

Operator	Field	District	Well Name	Well Number	Serial Number
The Bering Company	Richie	L	R Mc-Manus	3	041094(28)
Oilfield Pipe & Wellheads, Inc.	Ravens-wood	L	Kissner et al.	2	201572(30)
Ruth M. Kennedy	Monroe	M	Ruth Yahne	1	182092
Dorothy B. Nash & L. B. Stevenson	Monroe	M	Brown	2	099111
Land & Lease Service, Inc.	Dehlco	M	Avant A	3	127092
C&H Operations	Greenwood-Waskom	S	Bell D	1	058459
C&H Operations	Greenwood-Waskom	S	Bell D	3	058461
C&H Operations	Greenw-ood-Waskom	S	Bell D	4	058462
C&H Operations	Greenwood-Waskom	S	Bell D	5	058463
C&H Operations	Greenwood-Waskom	S	Bell D	6	058464
C&H Operations	Greenwood-Waskom	S	M G Bell D	3	060118
C&H Operations	Greenwood-Waskom	S	M G Bell B SWD	2	060479
C&H Operations	Greenwood-Waskom	S	M G Bell C	1	061109
C&H Operations	Greenwood-Waskom	S	Bell B	1	061928
C&H Operations	Greenwood-Waskom	S	Bell G	1	062044
C&H Operations	Greenwood-Waskom	S	Bell G	3	063023
C&H Operations	Greenwood-Waskom	S	M G Bell D	6	063049
C&H Operations	Greenwood-Waskom	S	Bell B	4	063101
C&H Operations	Greenwood-Waskom	S	M G Bell E	3	063102
C&H Operations	Greenwood-Waskom	S	M G Bell A	7	086657
C&H Operations	Greenwood-Waskom	S	Bell B	5	098563
C&H Operations	Greenwood-Waskom	S	Minnie Bell	2	100409
C&H Operations	Greenwood-Waskom	S	Minnie Bell	1	101565
C&H Operations	Greenwood-Waskom	S	Minnie Bell	3	102817
C&H Operations	Greenwood-Waskom	S	Minnie Bell	4	102818
C&H Operations	Greenwood-Waskom	S	Bell C	2	103516
C&H Operations	Greenwood-Waskom	S	Minnie Bell	8	103803
C&H Operations	Greenwood-Waskom	S	Minnie Bell	6	103804
C&H Operations	Greenwood-Waskom	S	Minnie Bell	7	103805
C&H Operations	Greenwood-Waskom	S	Minnie Bell	10	104618
C&H Operations	Greenwood-Waskom	S	Minnie Bell	9	104619
C&H Operations	Greenwood-Waskom	S	Minnie Bell	11	104620
C&H Operations	Greenwood-Waskom	S	Bell	1	104884
C&H Operations	Greenwood-Waskom	S	Bell C	4	105136
C&H Operations	Greenwood-Waskom	S	M G Bell D	5	105469
C&H Operations	Greenwood-Waskom	S	Minnie Bell	13	105657
C&H Operations	Greenwood-Waskom	S	Minnie Bell	14	105658
C&H Operations	Greenwood-Waskom	S	Minnie Bell	15	106061
C&H Operations	Greenwood-Waskom	S	Minnie Bell	17	106063
C&H Operations	Greenwood-Waskom	S	Bell	2	106066
C&H Operations	Greenwood-Waskom	S	Bell	3	106361
C&H Operations	Greenwood-Waskom	S	Bell	4	106362
C&H Operations	Greenwood-Waskom	S	Bell H	2	106423
C&H Operations	Greenwood-Waskom	S	Bell H	3	106424
C&H Operations	Greenwood-Waskom	S	Bell C	7	106554
C&H Operations	Greenwood-Waskom	S	M G Bell E	1	106568
C&H Operations	Greenwood-Waskom	S	Bell	5	106714
C&H Operations	Greenwood-Waskom	S	M G Bell E	2	107007